

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

## I. (a) PLAINTIFFS

JOSHUA AND WANDA AKERS

(b) County of Residence of First Listed Plaintiff Davidson County, TN  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

G. Thomas Martin, III (SBN 218456) PRICE LAW GROUP, APC  
15760 Ventura Blvd., #1100, Encino, CA 91436  
Telephone: (818) 907-2030

## DEFENDANTS

DIVERSIFIED COLLECTION SERVICES, INC.;  
and DOES 1-10 inclusive;

County of Residence of First Listed Defendant Alameda County, CA  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Tort Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee (Prisoner Petition) <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable Sat. TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

## V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
15 USC 1692

Brief description of cause:  
Unlawful Debt Collection Practices

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$  
According to Proof

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

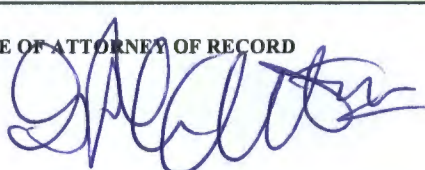
## IX. DIVISIONAL ASSIGNMENT (Civil L.R. 3-2)

(Place an "X" in One Box Only)

☒ SAN FRANCISCO/OAKLAND ☐ SAN JOSE ☐ EUREKA

DATE 05/21/2012

SIGNATURE OF ATTORNEY OF RECORD



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JOSHUA AND WANDA AKERS

**FILED**

MAY 29 2012

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND

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Full  
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MEJ

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

JOSHUA AND WANDA AKERS,

Plaintiffs,

vs.

DIVERSIFIED COLLECTION  
SERVICES, INC.; and DOES 1 to 10,  
inclusive,

Defendants.

Civil Case No.:

**C12-02716**

**COMPLAINT AND DEMAND FOR  
JURY TRIAL**

**(Unlawful Debt Collection Practices)**

**Demand Does Not Exceed \$10,000**

**COMPLAINT AND DEMAND FOR JURY TRIAL**

**INTRODUCTION**

1. This is an action for actual and statutory damages brought by plaintiffs Joshua Akers and Wanda Akers, individual consumers, against defendant Diversified Collection Services, Inc., for violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* (hereinafter "FDCPA") and the Rosenthal Fair Debt Collection Practices Act, Cal. Civ. Code §§ 1788 *et seq.* (hereinafter "RFDCPA"),



1 which prohibit debt collectors from engaging in abusive, deceptive, and unfair  
2 practices.

3  
4 **JURISDICTION**

5 2. Jurisdiction of this court arises under 15 U.S.C. § 1692k(d), Cal. Civ. Code §§  
6 1788.30, and 28 U.S.C. § 1331 and § 1337. Venue in this District is proper in that  
7 the Defendant transacts business here and the conduct complained of occurred  
8 here.  
9

10 **PARTIES**

11  
12 3. Plaintiff, Joshua Akers is a consumer, a natural person allegedly obligated to  
13 pay any debt, residing in the state of Tennessee.

14  
15 4. Plaintiff, Wanda Akers is a consumer, a natural person allegedly obligated to  
16 pay any debt, residing in the state of Tennessee.

17  
18 5. Defendant, Diversified Collection Services, Inc. is a corporation engaged in the  
19 business of collecting debt in this state with its principal place of business located  
20 in Alameda County at 333 North Canyons Parkway, Suite 100, Livermore,  
21 California 94551. The principal purpose of Defendant is the collection of debts in  
22 this state and Defendant regularly attempts to collect debts alleged to be due  
23 another.  
24

25  
26 6. Defendant is engaged in the collection of debts from consumers using the mail  
27 and telephone. Defendant regularly attempts to collect consumer debts alleged to  
28

1 be due to another. Defendant is a "debt collector" as defined by the FDCPA, 15  
2 U.S.C. § 1692a(6), and the Cal. Civ. Code § 1788.2.

3  
4 **FACTUAL ALLEGATIONS**

5 7. Upon information and belief, within one year prior to the filing of this  
6 complaint, Defendant placed collection calls to Plaintiffs, seeking and demanding  
7 payment for an alleged consumer debt owed under an account number.  
8

9 8. The debt that Defendant is attempting to collect on is an alleged obligation of a  
10 consumer to pay money arising out of a transaction in which the money, property,  
11 insurance or services which are the subject of the transaction are primarily for  
12 personal, family, or household purposes, whether or not such obligation has been  
13 reduced to judgment.  
14

15  
16 9. Upon information and belief, Defendant began contacting Plaintiffs and placing  
17 collection calls to Plaintiffs prior to May 10, 2012.  
18

19 10. Upon information and belief, within one year of the filing of this complaint,  
20 Defendant threatened to garnish both Plaintiffs' wages itself, when it cannot do so.

21 11. Upon information and belief, within one year of the filing of this complaint,  
22 Defendant threatened to sue Plaintiff Joshua Akers, as well as to take his income  
23 tax returns, when it cannot do so.  
24

25 12. Defendant, during communications with Plaintiffs, within one year from the  
26 filing of this complaint, did not state that Defendant was a debt collector,  
27  
28

1 attempting to communicate a debt, and that any information would be used for that  
2 purpose.

3 13. As a result of the acts alleged above, Plaintiffs suffered emotional distress  
4 resulting in Plaintiffs feeling stressed, and embarrassed, amongst other negative  
5 emotions.  
6

7  
8 **FIRST CLAIM FOR RELIEF**

9 14. Plaintiffs repeat and reallege and incorporate by reference to the foregoing  
10 paragraphs.  
11

12 15. Defendant violated the FDCPA. Defendant's violations include, but are not  
13 limited to, the following:

14 (a) Defendant violated §1692f of the FDCPA by using unfair or  
15 unconscionable means in connection with the collection of an  
16 alleged debt; and  
17

18 (b) Defendant violated §1692e(10) of the FDCPA by using false,  
19 deceptive, or misleading representation or means in connection  
20 with the collection of Plaintiff's alleged debt; and  
21

22 (c) Defendant violated §1692e(2)(B) of the FDCPA by falsely  
23 representing the services rendered or compensation which may be  
24 lawfully received by the Defendant for the collection of the alleged  
25 debt; and  
26  
27  
28

1 (d) Defendant violated §1692e(5) of the FDCPA by threatening to  
2 take action that it did not intend to take; and

3 (e) Defendant, during communications with Caroline, within one year  
4 from the filing of this complaint, did not state that Defendant was a  
5 debt collector, attempting to communicate a debt, and that any  
6 information would be used for that purpose; and  
7

8 (f) Defendant violated §1692e(11) of the FDCPA by failing to  
9 disclose in the oral communications with Plaintiffs that the  
10 communications were from a debt collector, and that the debt  
11 collector was attempting to collect a debt, and that any information  
12 obtained would be used for that purpose, when said  
13 communications were not formal pleadings.  
14  
15  
16

17 16. As a result of the foregoing violations of the FDCPA, Defendant is liable to the  
18 plaintiffs Joshua Akers and Wanda Akers for actual damages, statutory damages,  
19 and costs and attorney fees.  
20

21 **SECOND CLAIM FOR RELIEF**  
22

23 17. Plaintiffs repeat and realleges and incorporates by reference the foregoing  
24 paragraphs.  
25

26 18. Defendant violated the RFDCPA. Defendant's violations include, but are not  
27 limited to the following:  
28



1 (a) Defendant violated §1788.11(d) of the RFDCPA by causing a  
2 telephone to ring repeatedly or continuously to annoy the person  
3 called; and  
4

5 (b) Defendant violated §1788.11(e) of the RFDCPA by  
6 communicating by telephone with the debtor to constitute an  
7 harassment to the debtor; and  
8

9 (c) Defendant violated §1788.13(j) of the RFDCPA by falsely  
10 representing that a legal proceeding would be instituted unless  
11 payment of a consumer debt is made; and  
12

13 (d) Defendant violated §1788.17 of the RFDCPA by being a debt  
14 collector collecting or attempting to collect a consumer debt that is not  
15 compliant with the provisions of Sections 1692b to 1692j of the  
16 FDCPA, the references to federal codes in this section referring to  
17 those codes as they read as of January 1, 2001.  
18  
19

20 19. Defendant's acts as described above were done intentionally with the purpose  
21 of coercing Plaintiffs to pay the alleged debt.  
22

23 20. As a result of the foregoing violations of the RFDCPA, Defendant is liable to  
24 the plaintiffs Joshua Akers and Wanda Akers for actual damages, statutory  
25 damages, and costs and attorney fees.  
26  
27  
28

1 WHEREFORE, Plaintiffs Joshua Akers and Wanda Akers respectfully requests  
2 that judgment be entered against defendant Diversified Collection Services, Inc.  
3 for the following:

4 A. Actual damages.

5 B. Statutory damages pursuant to 15 U.S.C. § 1692k.

6 C. Statutory damages pursuant to Cal. Civ. Code § 1788.30.

7 D. Costs and reasonable attorney fees pursuant to 15 U.S.C. § 1692k and  
8 Cal. Civ. Code § 1788.30.

9 E. For such other and further relief as the Court may deem just and proper.

10  
11 **DEMAND FOR JURY TRIAL**

12 Please take notice that plaintiffs Joshua and Wanda Akers demand trial by  
13 jury in this action.

14  
15  
16  
17  
18 **RESPECTFULLY SUBMITTED,**  
19 **PRICE LAW GROUP APC**

20  
21  
22 DATED: May 21, 2012

23 By: 

24 G. Thomas Martin, III  
25 Attorney for Plaintiff  
26  
27  
28